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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,946	07/27/2000	Brenda Lynn Dietrich	YOR9-2000-0474US1	9416

7590 09/10/2002

Stephen C Kaufman  
Intellectual Property Law Dept  
IBM Corporation  
P O Box 218  
Yorktown Heights, NY 10598

EXAMINER

KERR, DEBRA E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/626,946

Applicant(s)

DIETRICH ET AL.

Examiner

Debra E Kerr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ye (US 6,374,227) in view of Ausubel (US 5,905,975).**

Ye substantially discloses the limitations of Claims 1-10. For example, Ye describes a method for determining the winning bid in a combinatorial auction by the use of a linear programming relaxation solution program to select a winning bid or combination of bids from multiple bidders. A collection of bids for a shipping lane or bundles of lanes are submitted, each bid consisting of an amount, a price and a unit price. The integer program is constructed using one or more problem-specific constraints which are added to the maximization problem to ensure that only one variable has a non-zero value in the special ordered set of the integer problem, and therefore one bid is awarded from a given set of bids. The process takes into account threshold values for the bid amounts as well as constraints (see at least col. 3, lines 32-52, col. 4 lines , col. 13 lines 22-64, and col. 23 line 57 – col. 24 line 29).

Ye fails to teach solving an integer program in a way that maximizes revenue. Ausubel discloses a method for determining the winning bid in an auction for multiple

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items that involves calculating maximized bid revenues to determine the auction's final outcome (see col. 29, line 62 – col. 30 line 54 and col. 31 line 21 – col. 32 line 28). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine Ye's method for conducting a combinatorial auction with the teaching of Ausubel regarding maximizing auction revenue, in order to generate higher profits for the seller.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra E Kerr whose telephone number is **(703) 305-3184**. The examiner can normally be reached on 7 a.m. to 4:30 p.m. Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on **(703) 305-1440**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703)308-1113**.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks  
Washington D.C. 20231***

or faxed to:

**(703)305-7687**

[Official communications; including  
After Final communications labeled  
"Box AF"]

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Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

Debra E. Kerr

DEK

September 3, 2002

  
JEFFREY A. SMITH  
PRIMARY EXAMINER